



Virginia Tobacco Commission Southside Capital Access Program

Program Manual

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I. Program Overview

The Virginia Tobacco Indemnification and Community Revitalization Commission (VTICRC) has expressed a desire to leverage its Southside-dedicated funds by adding a capital access insurance program to its current Commission-wide economic development grant program. To that end, the Executive Director of VTICRC requested that the Virginia Department of Business Assistance (DBA) and the Virginia Small Business Financing Authority (VSBFA) develop, market and administer a loan program which would provide financial assistance to the businesses located in the Southside Tobacco Region. The goal of TCAP is to promote economic growth and development in tobacco dependent communities and to encourage innovation in new technologies and industries.

II. Program Mechanics

TCAP is a program that utilizes an “insurance” concept on a portfolio of loans. Under the Program, each participating bank builds a loan loss reserve (the “Reserve Fund”) through fees collected from the bank/borrower and from VSBFA. A separate Reserve Fund is established for each participating bank, so the performance of any one participating bank will not affect the others. Moreover, the Reserve Fund is not specific to individual loans, but is used to offset all or part of a loss on any enrolled loan in a participating bank's TCAP loan portfolio.

A. Premium Payments

Each time a loan is enrolled under the Program, the bank and borrower each pay an equal premium which is deposited into the bank's Reserve Fund. (The bank may, however, opt to recover its portion of the premium payment from the borrower through higher interest rates or upfront fees.) At the time the bank notifies VSBFA of the loan enrollment, a matching premium is deposited by VSBFA into the bank's Reserve Fund.

Premiums are set by the bank depending on the perceived level of risk for the loan, but can range between 3% and 7% of the enrolled loan amount for the bank's/borrower's combined portion. At the maximum premium level, the bank and borrower would each contribute 3.5% and VSBFA would match that 7% contribution, creating a total deposit into the Reserve Fund of 14% of the enrolled loan amount. If the enrolled loan is among the first \$1,000,000 submitted by the bank during its participation in the program, the loan may be eligible for a “double-match” from VSBFA.

Upon the execution of this agreement and the opening of the account to house the reserve fund, the VSBFA will transfer \$50,000, the Match Advance, into the account to “seed” the Reserve Fund. This initial \$50,000 of funding will be an advance on VSBFA’s enrollment fees for future enrolled loans. If there are no enrolled loans for a period of one year after the initial funding, the VSBFA will withdraw the \$50,000 and all accrued interest. At any event, the VSBFA may withdraw any funds pursuant to Article VI.

Once the associated fees for the enrolled loans equals the initial funding, then VSBFA will begin to fund the enrollment fees for additional loans with new matching funds linked directly on a loan by loan basis.

The more frequently the bank utilizes the Program, the larger the Reserve Fund becomes and the greater the protection the Fund affords by spreading the risk over a larger portfolio of loans.

The principal objective of TCAP is to provide access to capital for Virginia businesses. Because of the requirement for the payment of an upfront premium, however, usage of TCAP will be more expensive to a borrower than a conventional bank loan. It is therefore assumed that the competitive nature of banking will ensure that loans to creditworthy borrowers who can obtain conventional financing will not be enrolled under the Program.

B. Eligible Financial Institutions

Any federal or state chartered bank is eligible for participation in the Program. All participating banks must execute a TCAP Bank Participation Agreement and a Reserve Fund account must be established prior to the enrollment of the bank's first loan.

C. Eligible Borrowers

An eligible borrower under this program can be a corporation, partnership, limited liability corporation, limited liability partnership, joint venture, sole proprietorship, cooperative or other entity, whether profit or non-profit. The borrower must be authorized to conduct business in the "Southside Tobacco Region", defined as the counties of Amelia, Appomattox, Bedford, Brunswick, Buckingham, Campbell, Charlotte, Cumberland, Dinwiddie, Franklin, Greensville, Halifax, Henry, Lunenburg, Mecklenburg, Nottoway, Patrick, Pittsylvania, Prince Edward, Sussex, and cities of Bedford, Danville, Emporia, Martinsville, and the proceeds of the loan must be used for an endeavor related to industrial, commercial or other business enterprise within the Southside Tobacco Region.

The borrower may not be an executive officer, director or principal shareholder of the bank, or a member of the immediate family of an executive officer, director or principal shareholder of the bank. The borrower may also not have a related interest with any such executive officer, director, principal shareholder or member of the immediate family of the same.

D. Eligible/Ineligible Loans

TCAP gives lenders significant flexibility in structuring the loans they enroll under the Program. The lender decides which loans to cover under the Program, and the lender determines the interest rate, premium level, term, collateral requirements, and any other conditions of the loan. Eligible loans can be short-term or long-term, have fixed or variable interest rates, be secured or unsecured, and bear any type of amortization schedule. *However, the maximum enrolled loan term is ten (10) years.* Banks may even extend lines of credit under the Program so long as the maximum amount of the line is enrolled under the Program.

In the event that an enrolled loan is refinanced or restructured and no additional principal is advanced, the enrolled loan may remain enrolled in the Program with no additional premiums payable by either the bank/borrower or VSBFA. In the event that an enrolled loan is refinanced and additional principal is advanced, the bank may file for enrollment and pay a premium on that portion of the loan which is in excess of the original loan enrollment amount if the bank wishes to have that additional principal amount covered under the Program.

The bank and the borrower mutually determine the use of the loan proceeds. Eligible loan uses include financing the acquisition of land, the construction or renovation of buildings, the purchase of equipment, other capital projects, and working capital. However, loans under the Program cannot be used to finance the following:

1. Endeavors related to residential housing or passive real estate ownership.
2. The refinancing of outstanding loans with the bank that were not originally enrolled under the Program.

E. Maximum Enrolled Loan Size

The maximum aggregate outstanding loan amount(s) which may be enrolled for any single borrower, or any common enterprise in which the borrower has an ownership interest, is \$250,000.

F. Maintenance of the Reserve Fund

A separate Reserve Fund is maintained for each bank participating in the Program and the funds in that account are completely dedicated to covering losses on loans enrolled by that institution. All funds credited to the Reserve Fund are solely controlled by VSBFA and are owned by VSBFA.

1. Location of the Reserve Fund:

For efficiency and administrative convenience, the Reserve Fund for participating banks will be established in the name of VSBFA and maintained at that bank. Reserve Fund accounts are to be interest bearing, and participating banks may not charge VSBFA for any fees related to TCAP loan transactions or for the maintenance of the Reserve Fund account. VSBFA will monitor Reserve Fund account activities and will deposit VSBFA's matching premium contributions to the Reserve Fund. ***The Reserve Fund accounts are public deposits pursuant to the Security for Public Deposits Act and must be indicated as such on the bank records. The bank is subject to the collateralization and reporting requirements of the Act.***

2. Uses of Accrued Interest:

Interest income earned on the Reserve Fund will be credited to the account. VSBFA may withdraw at any time up to 50% of all interest or income credited to the Reserve Fund. VSBFA will utilize these funds to offset the administrative costs associated with operating the Program or to make future matching premium payments.

3. Excess Reserve Fund Withdrawal Procedures:

If for 12 consecutive months the amount in a bank's Reserve Fund continuously exceeds the amount of that institution's existing TCAP loan portfolio, VSBFA may withdraw any excess funds within this reserve so that the amount remaining in the reserve will be equal to the outstanding aggregate balance of existing TCAP loans.

If a participating bank effectively discontinues using the Program and no additional loans are being enrolled, VSBFA will make withdrawals against the Reserve Fund as described above until all loans enrolled by the bank have been repaid. At that time, all remaining funds in the Reserve Fund account will be withdrawn by VSBFA.

If a bank formally terminates its participation in the Program, the 12-month period noted above will not apply and VSBFA may withdraw excess funds from the reserve immediately.

4. Reserve Fund Bank Statement:

The bank is to submit to the VSBFA a monthly bank statement which reflects all activity for the period under the Reserve Fund within 10 days of the preceding month-end.

III. Program Procedures

A. Enrolling a Loan

Prior to a loan enrollment in TCAP, the participating bank must establish the premium level and obtain the borrower's signature on the "TCAP Borrower Certification" form (see Exhibit 1) or such similar form as VSBFA may approve. This form must be maintained by the Bank as part of the borrower's credit file.

To process and enroll an eligible loan under TCAP, the participating bank simply submits a TCAP Enrollment form (see attached Exhibit 2), or such similar form as VSBFA may approve, to VSBFA and deposits the related bank/borrower premium into the Reserve Fund account. VSBFA then provides a written acknowledgment of acceptance to the bank and deposits the matching premium amount into the Reserve Fund account at the bank.

If the enrolled loan is among the first \$1,000,000 in loans that the participating Bank has enrolled under the Program, VSBFA will provide a "double-match" that is twice the amount of the premium contributed by the borrower/bank, up to a maximum match of fourteen percent.

Loan enrollments must be filed with VSBFA within 5 business days after the bank originates the loan. Each time a participating bank enrolls a loan in the Program, it is effectively making a representation and warranty to VSBFA that the loan, based on the information provided by the borrower, complies with the Program requirements.

B. Enrolling a Portion of a Loan

In situations where lenders feel marginally comfortable with a prospective loan as the result of partial collateral and/or guaranties, the bank may enroll under the Program only that portion of the loan that it deems more risky. For example, a bank originating a loan to a business requesting \$50,000 may extend a portion of the loan, say \$20,000, without coverage (as the result of strong collateral, etc.) and enroll the remaining \$30,000 of the loan in TCAP. Premiums in this case would only be assessed on the \$30,000 portion. In the event of default, the lender could recoup the first \$30,000 in principal loss on the loan, plus accrued interest on that portion and documented out-of-pocket collection expenses.

By selecting this alternative, the bank and the borrower reduce the borrower's costs by reducing the premium payment that must be deposited into the Reserve Fund account and excess premiums are not paid for coverage that is not needed.

C. Filing of Program Reports

Participating banks are required to file a quarterly report with VSBFA within 10 days after the end of the calendar year quarter. The report will provide a listing of borrowers and the outstanding balances of all enrolled loans. Reporting dates and filing deadlines for these reports are as follows:

<u>Report Date</u>	<u>Filing Deadline</u>
March 31	April 10
June 30	July 10
September 30	October 10
December 31	January 10

In computing the outstanding balance of enrolled loans, the balance reported should be no greater than the enrolled amount of the loan. In the case of lines of credit, the outstanding balance should be considered to be the full amount of the line.

D. Filing a Claim under the Program

When a loan enrolled under the Program defaults, the participating bank shall determine when and how much of the enrolled loan to charge off. The lender may then file a loss claim form (see Exhibit 3) within 30 days of the charged-off of any part or all of the enrolled loan. The bank is entitled to recover principal, accrued interest and any reasonable collection expenses related to the charge-off loan. The bank should retain documentation in its files evidencing all expenses for which a claim is filed.

Should the bank file two or more claims contemporaneously, and if there are insufficient funds in the Reserve Fund account to cover the entire amount of the claims, the bank may designate the order of the priority in which VSBFA should pay the claims from the Reserve Fund account.

E. Payment of a Claim

Provided the bank has not made representations it knew to be false at the time of loan enrollment, VSBFA will promptly pay a claim, as submitted, from the Reserve Fund account. If there are insufficient funds in the Reserve Fund account to cover the entire amount of the bank's claim, VSBFA shall pay the bank an amount equal to the current balance of the Reserve Fund account, less any fund interest accrued to VSBFA. Such payment shall be deemed to fully satisfy the claim and the bank will have no future right to receive any amount from the Reserve Fund with respect to that claim.

F. Collection Rights and Recoveries Subsequent to a Claim

Participating banks may proceed with the claim process before exercising their collateral rights and taking legal action against the borrower on a charged-off loan. In any event, should the lender recover any amounts from the borrower subsequent to the payment of a claim, the bank must promptly return these monies, less any amount needed to cover out of pocket expenses incurred, to VSBFA for deposit in the Reserve Fund account.

G. Liability

All loans enrolled under the Program are private transactions between the borrower and the bank. VSBFA's responsibility lies in administering the Program and providing matching premium payments on TCAP loans. VSBFA is not a party to the loans and disclaims any liability in connection with the loans enrolled under TCAP.

By executing the Bank Participation Agreement, each participating bank represents that it understands the regulations and guidelines of the Program and warrants that it will comply with them as Program loans are enrolled. In addition, the bank acknowledges that VSBFA bears no liability to the bank beyond the funds which are deposited into the Reserve Fund account.

**TCAP Program Manual
Exhibit 1**

TCAP Borrower Certification Form

Notice to Borrower

This notice is provided to Borrowers who may receive a loan which has been enrolled in the Virginia Tobacco Commission Southside Capital Access Program of the Virginia Small Business Financing Authority.

- Purpose:** The purpose of the Virginia Tobacco Commission Southside Capital Access Program (TCAP) is to assist banks in making loans to borrowers that might not otherwise qualify for a conventional bank loan.
- Reserve Fund:** The program uses a Reserve Fund to assist banks in recovering losses on a portfolio of loans that a bank makes under the program. A non-refundable fee (reserve contribution) paid into the Reserve Fund by the borrower/bank is matched by the Virginia Small Business Financing Authority. The borrower has no legal, beneficial or equitable interest in any reserve contributions made to the Reserve Fund. While the program is intended to assist banks in providing businesses with access to bank financing, loans enrolled through the TCAP program are usually more expensive for borrowers than would be the case with a conventional bank loan because of the additional risks.
- Parties:** A loan enrolled in the TCAP program is a private transaction between the bank and the borrower. The Virginia Small Business Financing Authority is not a party to the loans and plays no role in the bank's decisions (i.e., approving or declining the loan, setting the terms and conditions, or enforcing the bank's rights under the loan contract). The bank's rights and remedies are described in the loan contract and in law applicable to any bank financing.

Representations by Borrower

The borrower (the "Borrower") hereby acknowledges the foregoing and, with respect to the credit facility described below, the Borrower makes the following representations and warranties to (the bank) :

- Borrower:** The Borrower is a corporation, partnership, joint venture, limited liability company, limited liability partnership, sole proprietorship, cooperative, or other entity, which is authorized to conduct business in the Southside Tobacco Region of the Commonwealth of Virginia. The Borrower(s) is not an executive officer, a director, or a principal shareholder of (the bank) nor has a related interest in or is an immediate family member of an executive officer, director, or principal shareholder of (the bank) .
- Loan Enrollment:** The loan to the Borrower will be filed for enrollment by the bank in the Virginia Tobacco Commission Southside Capital Access Program. As a condition of the Program enrollment, the Borrower is required to pay a non-refundable fee, which will be collected by the bank for transmittal into the Reserve Fund.
- Loan Purpose:** The loan proceeds will be used for business purposes within the Southside Tobacco Region. They will not be used to finance housing or passive real estate ownership, which means the ownership of real estate for the purpose of deriving income from speculation, trade, or rental. It does not mean: 1) ownership of real estate being used or intended to be used for the Borrower's business operation, or 2) ownership of real estate for the purpose of construction or renovation during the construction or renovation phase.
- Waiver:** The Borrower hereby waives any right, claim or interest to any and all such funds paid or credited to the Reserve Fund from time to time.

(Borrower's Name)

By: _____

Title: _____

Date: _____

Credit Facility:

Note Date:	Account or Taxpayer ID No.:
Note Amount:	Covered Amount:
Other Outstanding Note(s) Amts. Covered, if applicable:	No. Jobs Created with Loan:
	No. Jobs Saved with Loan:

**TCAP Program Manual
Exhibit 2**

TCAP Loan Enrollment Form

Lender Information			
Participating Bank		Bank ID No.	
Authorized By		Phone No.	Fax. No.
Loan Officer		Phone No.	Fax. No.
Officer's Address		Date Submitted	
Borrower Information			
Applicant Name <i>(Please include fictitious names if any)</i>			
Complete Address <i>(Please include the city or county in which the Borrower is located)</i>			
Type of Business <i>(Please be specific: eg., Veterinary Clinic, Dental Practice, etc.)</i>		County of Business Location	Tax Identification Number
Current Annual Sales	Current Number of Employees		
Borrower's Estimate of New Jobs Created as a Result of this Loan _____		Borrower's Estimate of No. of Jobs Saved as the Result of this Loan: _____	
<p>The information requested below is voluntary and for statistical purposes only.</p> <p>Gender of Majority Owner: _____ Race: _____ Hispanic: <input type="checkbox"/> Yes</p> <div style="display: flex; justify-content: space-between;"> <div style="width: 30%;"> <input type="checkbox"/> Female <input type="checkbox"/> Male </div> <div style="width: 60%;"> <input type="checkbox"/> White <input type="checkbox"/> Black <input type="checkbox"/> Native American <input type="checkbox"/> Asian <input type="checkbox"/> Hawaiian or Pacific Islander </div> </div>			
Loan Information			
Purpose			
Note Date	Maturity Date	Secured?	
Customer No.	Note No.	Loan Type	
Interest Rate (Please indicate) Fixed _____ Floating (please indicate index) _____			
Note Amt.	Covered Amt.	Amt. of Other Outstanding Enrolled Loans to Borrower:	
<i>Complete the following fields if refinancing an enrolled TCAP loan:</i>	Enrolled Balance Prior to Refinance:	New Total Covered Amt.:	
Reserve Information			
Percentage:	Borrower:	Bank:	VSBFA:
Amount:	Borrower:	Bank:	VSBFA:
VSBFA Acceptance			
<p>% Borrower/Bank Payment _____ VSBFA Transfer Amount _____</p> <p>Amount of Other Outstanding Enrolled Loans _____</p> <p><input type="checkbox"/> Verify Borrower/Bank Payment Received. <input type="checkbox"/> Verify Copy of Enrollment Completed by VSBFA & Returned to Bank.</p> <p>Virginia Small Business Financing Authority</p> <p>By: _____</p> <p>Date: _____</p>			

TCAP Program Manual
Exhibit 3

TCAP Claim Form

-
1. Name of Bank: _____
 2. Name of Borrower: _____
 3. Borrower Customer No./ Note No.: _____
 4. Original Covered Amount of Loan at Enrollment: _____
 5. Outstanding Principal Balance of Loan: _____
 6. Amount of Claim
 - a. Principal _____
 - b. Accrued Interest _____
 - c. Out of pocket expenses _____Total Amount of Claim _____

Authorized Signature _____

Name and Title _____

Date _____